

REMARKS

Claims 36-52 are pending. Claims 1-35 have been canceled without prejudice.

Obviousness-type Double Patenting

Claims 36-52 are provisionally rejected on the ground of nonstatutory obviousness-type double patenting ("ODP"), as allegedly being unpatentable over claims 23-24, 33-35 and 44-47 of copending application no. 10/568,367 (now allowed). As this is the only rejection remaining in this application and a terminal rejection has been filed in the later-filed application, the Examiner should withdraw the ODP rejection in this earlier filed application thereby permitting the application to issue without the need of a terminal disclaimer. (See § 804 of the MPEP). In an interview with Examiner Rao dated January 26, 2011, the Examiner agreed to withdraw this rejection without the need of a terminal disclaimer, in accordance with section 804 of the MPEP.

Conclusion

In view of the foregoing, Applicant submits that pending claims 36-52 are now allowable. If the Examiner believes a telephone conference would expedite prosecution of this application, please telephone the undersigned attorney at 858-812-1539.

In the event that the U.S. Patent and Trademark Office determines that an extension and/or other relief is required, Applicant petitions for any required relief including extensions of time and authorize the Assistant Commissioner to charge the cost of such petitions and/or other fees due in connection with the filing of this document to **Deposit Account No. 50-1885** referencing docket No. PAT032910A-US-PCT.

Respectfully submitted,
/Emily Tongco Wu, Reg. No. 46,473/
Emily Tongco Wu, Reg. No. 46,473

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Customer No.: 29490
Tel: (858) 812-1539
Fax: (858) 658-8000